

§ 0.29d

28 CFR Ch. I (7–1–01 Edition)

§ 0.29d Whistleblower protection for FBI employees.

(a) *Protected disclosures by FBI employees.* Disclosures of information by an FBI employee that the employee reasonably believes evidences a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety are protected disclosures and may be reported to the OIG, DOJ-OPR, or FBI-OPR. The OIG and DOJ-OPR shall refer such allegations to FBI-OPR for investigation unless the Deputy Attorney General determines that such referral shall not be made.

(b) *Allegations of retaliation against FBI employees.* Allegations of retaliation against an employee of the FBI who makes a protected disclosure shall be reported to the OIG, DOJ-OPR, or the Deputy Attorney General.

§ 0.29e Relationship to other departmental units.

(a) The OIG works cooperatively with other Department components to assure that allegations of employee misconduct are investigated by the appropriate entity:

(1) The OIG refers to DOJ-OPR, FBI-OPR, or DEA-OPR allegations of misconduct within their respective jurisdiction and may refer to another component the investigation of an allegation of administrative misconduct on the part of an employee of that component;

(2) DOJ-OPR refers to the OIG, FBI-OPR, or DEA-OPR allegations involving misconduct by Department attorneys or investigators that do not relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice;

(3) The FBI and DEA provide contemporaneous notice to the OIG of all allegations of serious criminal conduct and serious administrative misconduct regarding their respective senior employees (grade 15 and above) and all work-related serious criminal conduct (except travel voucher fraud or false statements) regarding their other employees;

(4) The OIG and the FBI notify each other of the existence of criminal investigations that fall within their joint

jurisdiction to investigate crimes involving the operations of the Department, except where such notification could compromise the integrity of an investigation;

(5) Other Department components report to the OIG all allegations of serious misconduct involving any of their employees except allegations involving Department attorneys and investigators that relate to an attorney's authority to litigate, investigate, or provide legal advice;

(6) At the request of the Inspector General, the Deputy Attorney General may assign to the OIG a matter within the investigative jurisdiction of another internal investigative component. In such instances, the OIG shall either:

(i) Notify the component of its request to the Deputy Attorney General or

(ii) Request that the Deputy Attorney General determine that such notification would undermine the integrity of the investigation nor jeopardize the interests of the complainant.

(7) While an issue of investigative jurisdiction or assignment is pending before the Deputy Attorney General, neither the OIG nor the other investigative component shall undertake any investigative activity without authorization from the Deputy Attorney General.

(b) OIG investigations that result in findings of potential criminal misconduct or civil liability are referred to the appropriate prosecutorial or litigative office.

(c) The OIG advises DOJ-OPR of the existence and results of any investigation that reflects upon the ethics, competence, or integrity of a Department attorney for appropriate action by DOJ-OPR.

(d) OIG investigations that result in findings of administrative misconduct are reported to management for appropriate disposition.

[Order No. 2167–98, 63 FR 36847, July 8, 1998; 63 FR 40788, July 30, 1998]

§ 0.29f Confidentiality.

The Inspector General shall not, during the pendency of an investigation, disclose the identity of an employee who submits a complaint to the OIG

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without the employee's consent, unless the Inspector General determines that such disclosure is unavoidable in the course of the investigation.

§ 0.29g Reprisals.

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for the employee making a complaint or disclosing information to the OIG unless the complaint was made or the information was disclosed with knowledge that it was false or with willful disregard for its truth or falsity.

§ 0.29h Specific authorities of the Inspector General.

The Inspector General is authorized to:

(a) Conduct investigations and issue reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable;

(b) Receive and investigate complaints or information from an employee of the Department concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health and safety;

(c) Have direct and prompt access to the Attorney General when necessary for any purpose pertaining to the performance of the functions and responsibilities of the OIG;

(d) Have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department and its components that relate to programs and operations with respect to which the OIG has responsibilities unless the Attorney General notifies the Inspector General, in writing, that such access shall not be available because it is necessary to prevent the disclosure of

(1) Sensitive information concerning ongoing civil or criminal investigations or proceedings;

(2) Undercover operations;

(3) The identity of confidential sources, including protected witnesses;

(4) Intelligence or counterintelligence matters; or

(5) Other matters the disclosure of which would constitute a serious threat to national security or significantly impair the national interests of the United States;

(e) Request such information or assistance as may be necessary for carrying out the duties and responsibilities of the OIG from any office, board, division, or component of the Department, and any Federal, State, or local governmental agency or unit thereof;

(f) Issue subpoenas to individuals, and entities, other than Federal government agencies, for the production of information, records, data, and other documentary evidence necessary to carry out the functions of the OIG;

(g) Obtain information from Federal government agencies by means other than subpoena and advise the head of such agency whenever information is unreasonably refused or not provided;

(h) Select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the OIG;

(i) Employ on a temporary basis such experts and consultants as may be necessary to carry out the duties of the OIG;

(j) Enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the duties of the OIG;

(k) Take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the functions of the OIG.

§ 0.29i Audit, inspection, and review authority.

The OIG is authorized to perform audits, inspections, and reviews of the programs and operations of the Department of Justice and of entities contracting with or obtaining benefits from the Department.

§ 0.29j Law enforcement authority.

Special Agents of the OIG are deputized on an annual basis as Deputy